

## 16.

## Over troubled waters: maritime rescue operations in the Central Mediterranean Route

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VULNERABILITIES



MISSING MIGRANTS

**Abstract:** In this chapter, we investigate the shifting role played by Italian and European security forces, non-governmental organizations (NGOs), and the Libyan Coast Guard and Navy (LCGN) in the conduct of search and rescue (SAR) and border enforcement operations in the Central Mediterranean corridor connecting Libya to Malta and Italy. By doing so, we explore the relationship between the evolution of SAR operations, the number of irregular migrant departures from Libya and fatalities at sea. Our findings suggest that SAR operations conducted by European authorities and NGOs have played an important role in reducing the deadliness of sea crossings without significantly contributing to incentivizing irregular migration.

With over 15,000 reported fatalities from 2014 to 2019, the Central Mediterranean corridor connecting Libya to Malta and Italy is the deadliest border worldwide. The large number of casualties at sea has compelled States and non-State actors to launch several ad hoc maritime search and rescue (SAR) missions. These efforts, however, vary significantly in scope, intensity and implications. This chapter provides a short overview of SAR operations in the Central Mediterranean corridor between Libya, Malta and Italy from 2013 to January 2020. To this end, section 16.1 identifies four key phases in the evolution of the policies devised to both rescue lives and manage irregular migration from Libya to Europe over the last decade. Section 16.2 to 16.6 examine each phase in detail. Section 16.7 and the ensuing conclusions analyse the relationship between SAR operations, human mobility and human security, investigating the interplay between rescue operations, the magnitude of maritime migratory flows and casualties at sea.

## 16.1. The evolution of maritime rescue in the Central Mediterranean

The uneasy relationship between the attempt to contain irregular migration to Europe and the moral imperative to reduce casualties at sea has generated a complex array of maritime border control measures and humanitarian policies. Examining each in detail is beyond the scope of this chapter. Broadly speaking, however, four different phases can be identified.

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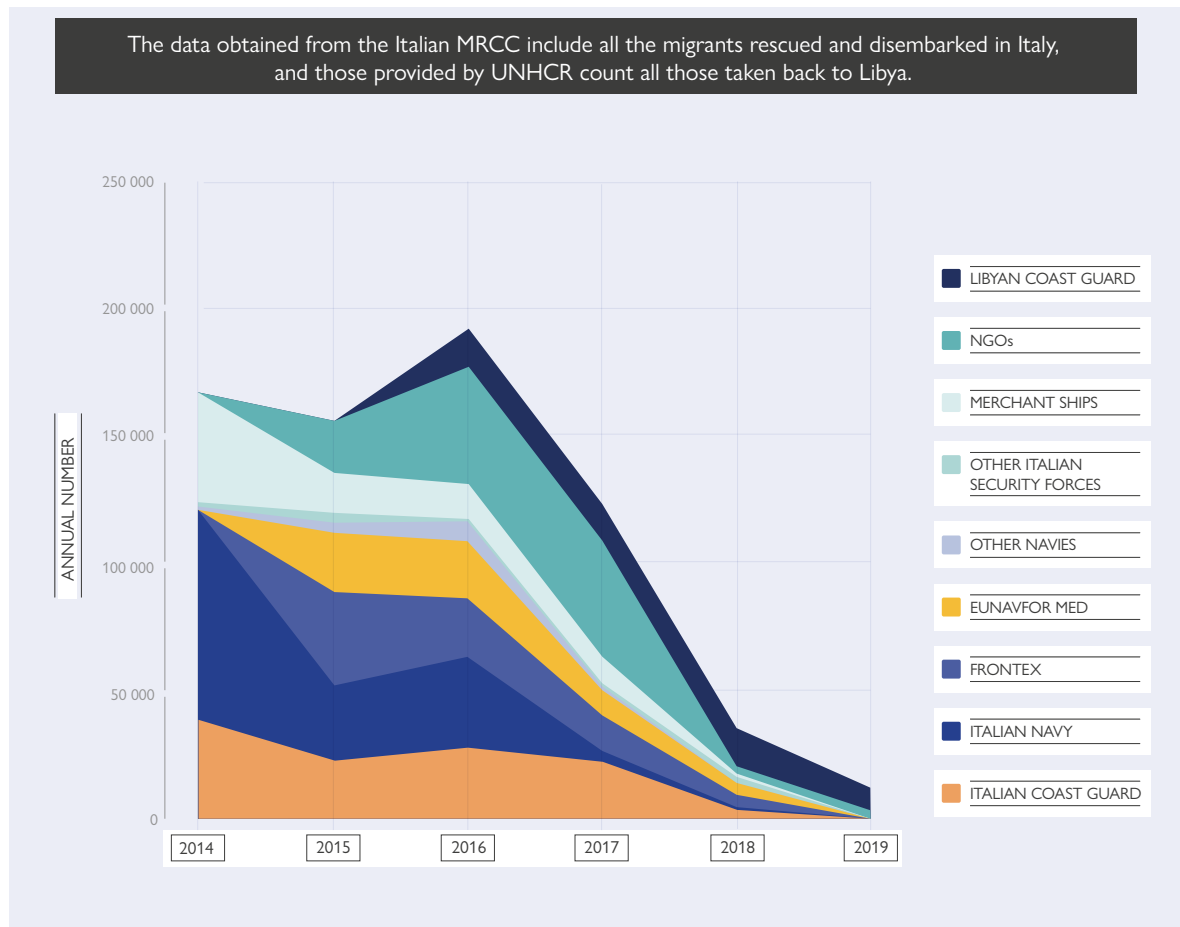
In the first phase, which took place until late 2013, no naval assets specifically dedicated to SAR were present in the Central Mediterranean. Rescue operations were occasionally conducted by Italian and Maltese authorities, as well as by merchant and fishing vessels.

In the second phase, State military and law enforcement assets directly conducted proactive SAR. In October 2013, Italy launched operation *Mare Nostrum*, rescuing all migrants in distress found in the Italian, Maltese and Libyan Maritime Rescue Regions (MRRs). Even though *Mare Nostrum* was suspended after one year, European Union missions, as well as the Italian Navy and Coast Guard, continued to rescue a large number of migrants throughout 2015 and 2016.

The third phase, roughly corresponding to 2016 and 2017, saw civil society play a key role in SAR. In response to the growing disengagement of European Union naval assets from the Central Mediterranean, a number of non-governmental organizations (NGOs) started conducting SAR under the coordination of the Italian Maritime Rescue Coordination Centre (MRCC). Overall, NGO ships rescued 111,478 migrants from 2014 to 2017 (Guardia Costiera, 2019).

In the fourth phase, spanning 2018 to early 2020, most migrants crossing the Central Mediterranean – whose numbers have shrunk to pre-2013 levels – were intercepted in Libyan waters and returned to Libya by Tripoli’s Government of National Accord Libyan Coast Guard and Navy (LCGN). This was due to the Government’s willingness to declare and take responsibility for its own MRR, but also to Italy’s decision to restrain the activities of NGOs operating at sea, and no longer serve as a place of disembarkation for the migrants rescued in the Southern Mediterranean.

**Figure 16.1.** Number of migrants rescued per organization, 2014–2019



Source: Elaboration from Italian Maritime Rescue Coordination Centre and the Office of the United Nations High Commissioner for Refugees (UNHCR).

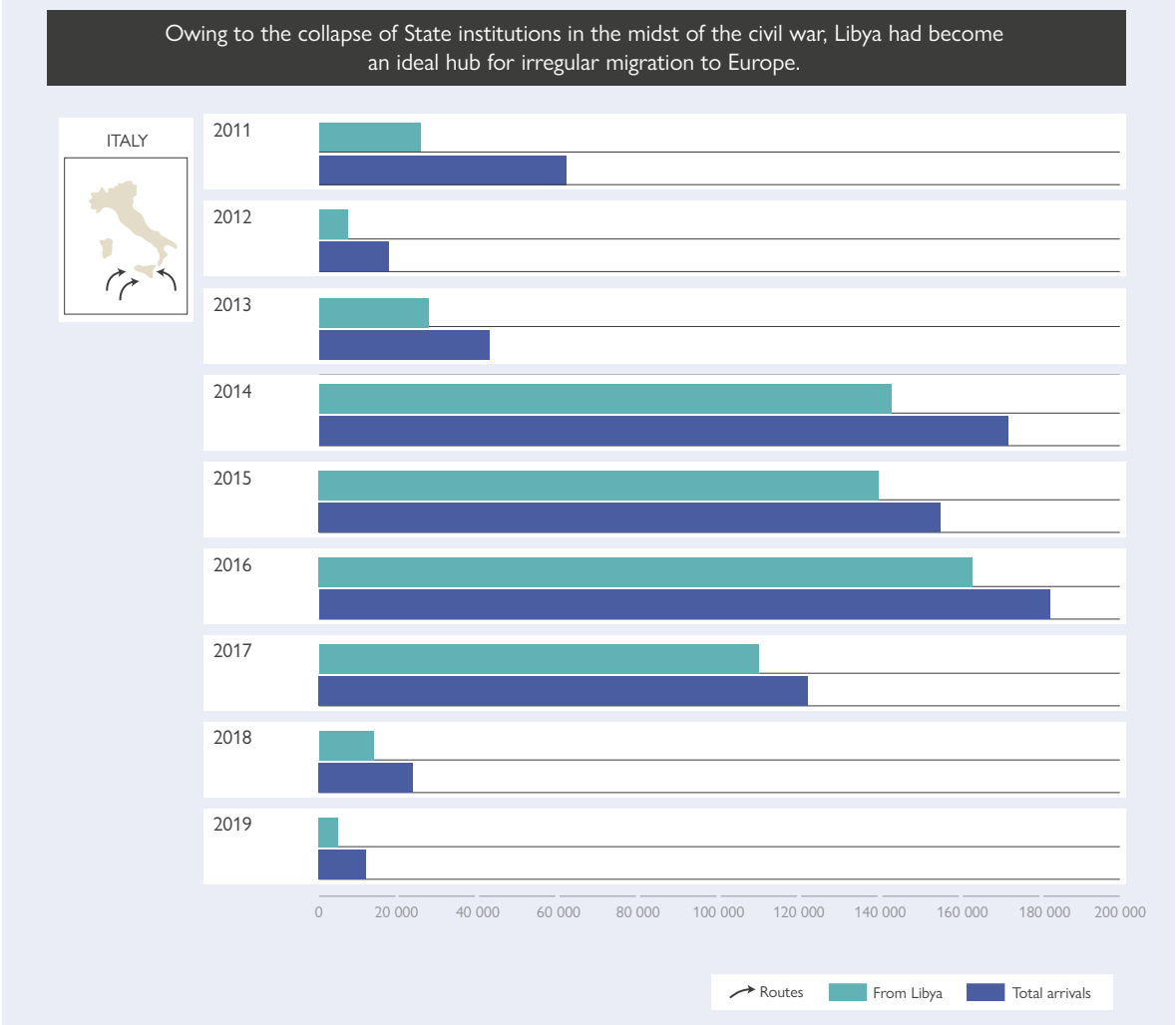
Figure 16.1 shows the shift in the total number of people rescued by European State assets, civil society, merchant vessels and the LCGN off the coast of Libya from 2014 to the end of 2019. As Tunisia and Malta engaged in a very small number of SAR operations (only 2,142 were disembarked in Malta from 2014 to 2019), we rely on the data we obtained from the Italian MRCC – which include all the migrants rescued and disembarked in Italy – and those provided by UNHCR – counting all those taken back to Libya.

The policies enacted during each of the above-mentioned phases have come under scrutiny. The arguments deployed are manifold, including the claim that the European Union failed to act in response to casualties at sea; the concern that SAR operations disembarking migrants in Europe serve as a pull factor of migration; and the accusation that the activities of the LCGN conflate rescue and interception, violating migrants’ right to apply for international protection as well as the fundamental freedoms of all those returned to arbitrary detention. The following sections provide a more systematic appraisal of these rescue efforts by examining each phase in detail.

## 16.2. From the fall of Gaddafi to *Mare Nostrum*

Irregular departures across the Central Mediterranean did not immediately skyrocket in the wake of the Arab uprisings and the overthrow of Muammar Gaddafi’s regime in Libya. While a first spike of irregular crossings from Tunisia had already occurred in 2011, crossings dropped again in 2012 and then dramatically increased from mid-2013 (Fargues, 2017). Owing to the collapse of State institutions in the midst of the civil war, Libya had become an ideal transit country for irregular migration to Europe (Al Arabi, 2018).

**Figure 16.2.** Irregular sea arrivals to Italy (2011–2019)



Source: Italian Ministry of the Interior, IOM.

Note: This map is for illustration purposes only. The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the International Organization for Migration.

In the meantime, the policies devised by Italy to deter irregular migration from Libya had not only been nullified by the collapse of Gaddafi's regime, but also challenged on legal grounds by the European Court of Human Rights. Cooperation on migration management featured prominently in the 2008 Treaty on Friendship, Partnership and Cooperation between Italy and Libya, where the two parties committed to patrolling Libyan shores through boats provided by Italy and manned by joint crews. In its 2012 *Hirsi Jamaa and Others v. Italy* decision, however, the European Court of Human Rights found that, by returning rescued migrants to Libya, the Italian Navy had violated the non-refoulement principle, which prevents pushing back migrants and refugees where their fundamental rights would be threatened (Moreno-Lax and Papastavridis, 2016:4).

Since then, Italian authorities disembarked all those rescued at sea on Italian territory. SAR operations, however, remained sporadic and largely confined to the Italian MRR. Malta, too, refrained from proactively assisting migrants in distress at sea, letting most boats proceed north and limiting SAR operations to situations of "clear and imminent danger" (Klepp, 2011:550). In this context, many rescue operations were conducted by merchant and fishing vessels. Most boats independently reached the Italian island of Lampedusa, or even the coasts of Sicily. The surge in Mediterranean crossings, however, dramatically increased the magnitude and visibility of casualties at sea. The two large shipwrecks that occurred in October 2013 compelled the Italian Government to launch more proactive rescue missions closer to Libyan waters (Baldwin-Edwards and Lutterbeck, 2019; Steinhilper and Gruijter, 2018).

## 16.3. State-led maritime rescue: *Mare Nostrum* and beyond

Italy's attempt to simultaneously prevent casualties at sea, reduce undetected irregular arrivals and apprehend human smugglers translated into the launch of *Mare Nostrum*. The mission, which covered an operational area including the Libyan, Maltese and Italian MRRs, involved 34 Navy warships and 900 sailors, who assisted over 156,000 migrants during its year of activity. A significant number of SAR operations, however, continued to be conducted by merchant vessels, which assisted over 40,000 migrants in 2014 alone (Cusumano, 2019a).

Eventually, *Mare Nostrum* became increasingly criticized as a "bridge to Europe" and an "unintended pull factor [for irregular migration], encouraging more migrants to attempt the dangerous sea crossing" (House of Lords, 2016:5). In November 2014, the European Union Council agreed on replacing the Italian Navy mission with an operation conducted by the European Border and Coast Guard (better known as Frontex), named *Triton*. In April 2015, the European Union Joint Foreign and Home Affairs Council tripled Triton's budget and expanded its operational area to 138 miles off the Italian coast. The mission, however, remained primarily focused on border control rather than SAR operations. In June that year, the European Union also launched a Common Security and Defence Policy military mission called EUNAVFOR MED Operation Sophia, tasked with disrupting migrant smuggling. While neither Triton nor EUNAVFOR Med included SAR operations in their mandate, they duly complied with the moral and legal obligation to rescue those in distress, assisting over 106,000 migrants in 2015 and 2016. In the same period, the Italian Navy and Coast Guard also continued to independently conduct SAR operations, assisting over 110,000 people (Cusumano, 2019b).

## 16.4. Non-governmental SAR initiatives: the rise and decline of sea rescue NGOs

The shortage of rescue assets arising from the discontinuation of *Mare Nostrum* encouraged several humanitarian NGOs to step in, chartering or purchasing boats to assist migrants in distress and disembark them in Europe. From 2015 until 2017, all migrants rescued by NGOs were disembarked in Italy. NGO ships were authorized to disembark migrants in Malta on only four occasions in 2018 and 2019. Non-governmental SAR operations started in September 2014 with the creation of the Maltese charity known as Migrant Offshore Aid Station (MOAS). In 2015,

MOAS' example was replicated by Sea-Watch and the Brussels and Barcelona branches of *Médecins Sans Frontières*. By 2016, 10 different NGOs were operating at sea. Table 16.1 provides a list of all the NGOs operating at sea and the ships they used at different moments in time. Only MOAS and *Médecins Sans Frontières* simultaneously operated two ships in 2015 and 2016.

**Table 16.1.** Sea rescue NGOs in the Central Mediterranean

NGO	Capabilities	Operational time frame
MOAS	40 m <i>Phoenix</i>	September 2014–September 2017
	51 m <i>Responder</i>	
Médecins Sans Frontières	50 m <i>Dignity 1</i>	March 2015–ongoing
	68 m <i>Bourbon Argos</i>	
	77 m <i>Prudence</i>	
	69 m <i>Ocean Viking</i>	
Sea-Watch	27 m <i>Sea-Watch1</i>	April 2015–ongoing
	33 m <i>Sea-Watch2</i>	
	50 m <i>Sea-Watch3</i>	
Sea-Eye	23 m <i>Sea-Eye</i>	May 2016–ongoing
	26 m <i>Seefuchs</i>	
LifeBoat Project	23 m <i>Minden</i>	June–September 2016
ProActiva	30 m <i>Astral</i>	June 2016–ongoing
	37 m <i>Golfo Azzurro</i>	
	37 m <i>Open Arms</i>	
SOS-Méditerranée	77 m <i>Aquarius</i>	February 2016–ongoing
	69 m <i>Ocean Viking</i>	
Jugend Rettet	37 m <i>Iuventa</i>	July–September 2016
Boat Refugee Foundation	37 m <i>Golfo Azzurro</i>	September–October 2016
Save the Children	57 m <i>Vos Hestia</i>	September 2016–September 2017
Mission Lifeline	33 m <i>Lifeline</i>	June 2017–ongoing
	20 m <i>Eleonore</i>	
Mediterranea Saving Humans	37 m <i>Mare Jonio</i>	October 2018–ongoing
	20 m <i>Alex</i>	
Aita Mari	32 m <i>Aita Mari</i>	November 2019–ongoing

Despite the limited size of most organizations' ships, NGOs performed most SAR operations, assisting over 40,000 migrants per year in both 2016 and 2017. Operating under the coordination of the Italian MRCC, NGOs would disembark migrants in the port indicated by Italian authorities or simply assist those in distress until a larger vessel would transport them to Italy (Cusumano, 2019b; Cuttitta, 2018).

Non-governmental sea rescue, however, eventually became the target of heated criticism. The concern that NGOs served as a pull factor of irregular migration, first raised by Frontex (2017) and then forcefully reiterated by Italian opposition leaders, prosecutors and media, urged Italian authorities to increasingly restrict or discourage their activities. Many of these measures, such as the 2017 Code of Conduct on maritime rescue, were backed by the European Council (Rettman, 2017). Since 2017, the suspicion that NGOs were aiding and abetting irregular immigration prompted Italian and Maltese courts to impound various ships. In June 2018, all foreign-flagged rescue vessels were explicitly prohibited from entering Italian waters. Deprived of the possibility to disembark migrants in nearby ports and facing a growing risk of criminalization, NGOs drastically reduced their operations. From January to October 2019, NGOs only maintained a presence at sea for 85 days, often limited to just one ship (Cusumano and Villa, 2019).

## 16.5. The Libyan Coast Guard and Navy: rescue or interception?

Italian and European authorities took a number of actions to build the capacity of Libya's Government of National Accord law enforcement institutions, focusing on training and funding the LCGN. Since late 2017, Italy increasingly handed over formal responsibility for rescue operations in Libya's SRR to Tripoli's authorities, despite concerns that its newly formed Coast Guard and Navy was not yet able to effectively conduct SAR operations. This tendency has gained momentum since December 2017, when Tripoli's authorities officially declared responsibility over their own MRR before the International Maritime Organization (Baldwin-Edwards and Lutterbeck, 2019).

As shown in Figure 16.1, the LCGN was already operational in 2016. While the number of migrants rescued or intercepted by Libyan authorities did not significantly change in absolute terms, these figures acquired new significance since late 2017. Due to the plummeting number of departures and the reduced presence at sea of both NGOs and European State assets mentioned in the previous sections, the LCGN has now become by far the largest provider of SAR activities in the Southern Mediterranean. The role played by this organization has raised serious concerns ((IOM and UNHCR, 2020; UNHCR, 2018). Specifically, evidence shows that the LCGN has often failed to answer SOS calls, promptly dispatch patrols to conduct SAR operations, or recover all people found in distress at sea. The fact that migrants often resist being taken back to Libya – where they are likely to face abuse in detention centres – has prompted the LCGN to repeatedly use force during their operations (UNHCR, 2018). As illustrated below, this is likely to have caused a significant increase in the number of fatalities.<sup>3</sup>

## 16.6. The implications of maritime rescue operations

This section examines the implications of the evolution of SAR operations outlined above by examining two contentious relationships: the interplay between maritime rescue and the magnitude of migratory flows, as well as the effect of SAR missions on fatalities at sea.

<sup>3</sup> IOM has called on the international community for urgent action to find alternatives to disembarkation in Libya (IOM, 2020).

**Figure 16.3.** Average monthly attempted crossings from Libya



Source: Authors' elaborations on UNHCR and IOM data.

Note: This map is for illustration purposes only. The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the International Organization for Migration.

Since 2014, both public and private actors performing maritime SAR operations have been accused of incentivizing more departures from the Southern Mediterranean coasts, indirectly increasing crossings and fatalities by acting as a “pull factor” of irregular migration (Frontex, 2017; House of Lords, 2016). At first glance, figures on monthly departures from Libya seem to support this argument: from late 2013 to 2017, when proactive SAR operations were conducted, irregular crossings were five times higher than either before or after. However, solely focusing on the overlap between SAR operations and irregular maritime border crossing disregards the effects of other potentially more significant drivers of irregular migration. Moreover, this correspondence is biased by reverse causality: rather than simply “causing” irregular migration, proactive SAR operations were themselves an effect of growing departures from Africa, as they were launched in response to the rising number of casualties attached to irregular crossings. In the four months before the launch of *Mare Nostrum*, attempted crossings from Libya had reached levels that were already three to eight times higher than in 2012. In September 2013, for instance, estimated departures had already peaked at 9,757, increasing eightfold relative to the 1,272 crossings that occurred in September 2012. As *Mare Nostrum* got underway, the civil war in Libya escalated, making it even harder to understand whether Italian Navy rescue operations were serving as an incentive for migrants to reach Europe or whether smugglers were simply taking advantage of the power vacuum in the country.

NGOs’ activities provide more evidence questioning the significance of this alleged pull effect. As they operated closer to Libyan coasts than any other assets, non-governmental rescuers were considered especially likely to serve as a pull factor of irregular migration (Frontex, 2017). However, our test using a multivariate regression model (Table 16.2) shows that the varying share of rescue operations conducted by NGOs had no significant effect on

the number of migrants departing from Libya in the period from January 2014 to September 2019.<sup>4</sup> In fact, the only variables strongly correlated with migrant departures from Libya were monthly controls (departures tend to display a strong seasonal trend, sharply decreasing in months with rougher weather conditions) as well as the policies of onshore containment devised by Italy since July 2017 under Interior Minister Minniti, when Italy obtained the cooperation of Libya's tribes and militias in curbing irregular departures. By contrast, the restrictions on NGOs' activities enacted when Interior Minister Salvini was in office (June 2018–August 2019) do not appear to have played a large role in curbing irregular departures.

The lack of any significant pull effect has been especially visible since 2019. In that period, NGO ships were the only ones performing SAR operations disembarking migrants in Europe. This allows for a second test, looking at whether any correlation exists between the number of daily attempted crossings from Libya and the presence or absence of NGOs off Libya's coast. In this period, the number of migrant departures from Libya on days when NGOs were at sea was no higher than when no NGO was present. Only weather conditions appear to have significantly increased the likelihood of maritime crossings (Cusumano and Villa, 2019).

**Table 16.2.** Results of robust linear regression<sup>a</sup>

	DV: Monthly migrant departures from Libya
DV t-1	0.330 (.127)**
NGOs t-1	2 726 (5 246)
NGOs t-2	-4 308 (5 201)
NGOs t-3	-3 842 (5 416)
Italy's maritime migration policies under Interior Minister Minniti (onshore containment)	-7 949 (3 002)**
Italy's maritime migration policies under Interior Minister Salvini (closure of ports to NGO ships)	-2 330 (2 230)
<i>Mare Nostrum</i>	2 502 (2 178)
Political stability in Libya	1 857 (3 949)
(constant)	4 766 (2 656)
Monthly controls <sup>b</sup>	YES***
N	66
R <sup>2</sup>	0.82

<sup>a</sup> Robust standard errors in parentheses.

<sup>b</sup> Significance tested through a Wald test of joint significance.

Significance levels: \*\*\* = .01; \*\* = .05; \* = .10.

Ultimately, our tests suggest that proactive SAR operations did not significantly affect either the initial rise in departures since mid-2013, or their drastic drop after July 2017. Other scholars' work, however – while not directly testing the relationship between migrant departures and SAR operations – suggests that rescue missions encourage sea crossings in worse weather conditions and with increasingly rickety boats (Deiana et. al, 2019). For this reason,

<sup>4</sup> To test for the effect of NGOs' SAR activity on irregular migrant departures from Libya, we include three lags in NGOs' SAR activity, a lag in migrant departures, and two dummies accounting for key changes in Italian migration policies, namely the deal with Libyan militias signed by Interior Minister Minniti in July 2017 to contain irregular departures, and the announcement that Italian ports would be closed to rescue ships made by Interior Minister Salvini in June 2018. We also include a dummy for Operation Mare Nostrum (October 2013–October 2014), and a proxy for political stability in Libya based on oil production in the country. Finally, we include monthly controls to account for seasonality.



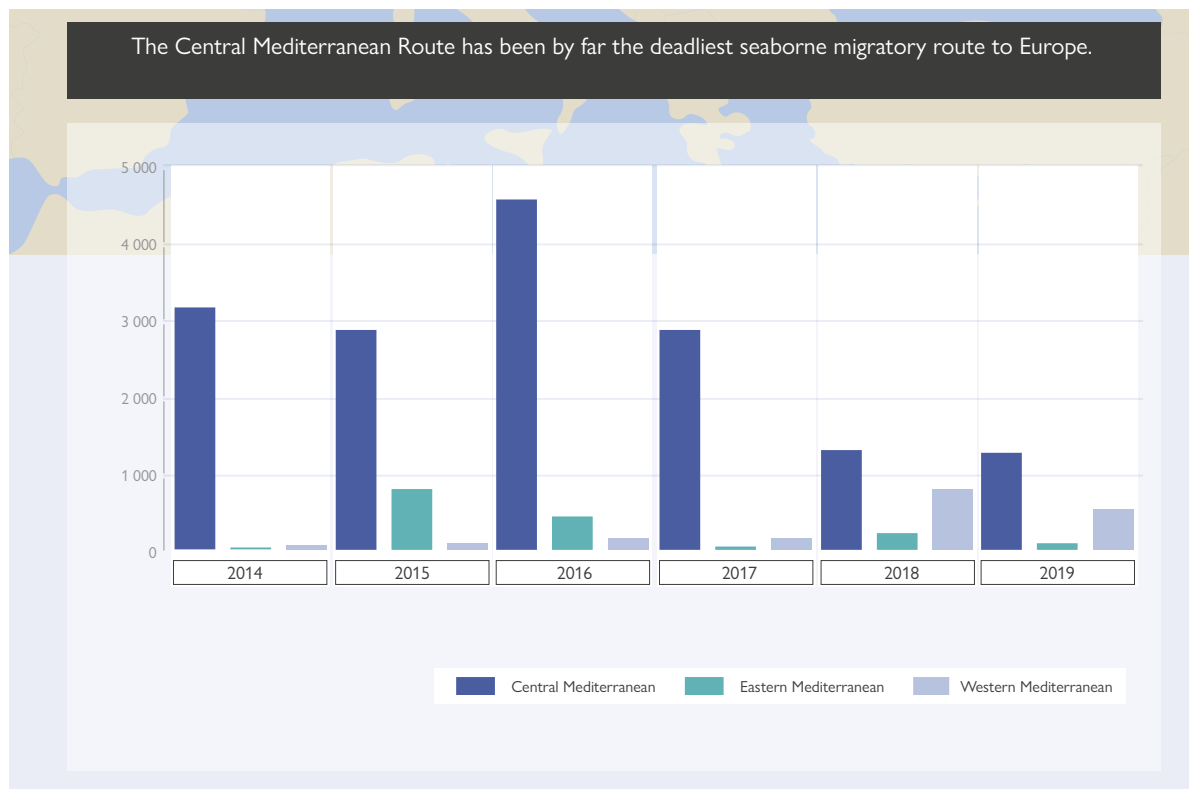
Even if nearly all non-governmental rescue operations were suspended in the wake of the COVID-19 crisis, when Italy and Malta declared that their ports would no longer serve as places of safety, irregular departures from Libya from January to May 2020 more than doubled compared with the first five months of 2019.



more research is needed to disprove or support the existence and significance of a pull effect for irregular migration. Data on irregular crossings over the first few months of 2020, however, provide additional support to the argument that SAR operations do not significantly incentivize irregular departures. Even if nearly all non-governmental rescue operations were suspended in the wake of the COVID-19 crisis, when Italy and Malta declared that their ports would no longer serve as places of safety, irregular departures from Libya and Tunisia from January to May 2020 more than doubled compared with the first five months of 2019.

The relationship between SAR operations and the risks of irregular crossings is also worth examining.<sup>5</sup> As shown by Figure 16.4, the Central Mediterranean Route has been by far the deadliest seaborne migratory route to Europe.

**Figure 16.4.** Reported casualties along seaborne migratory routes to Europe



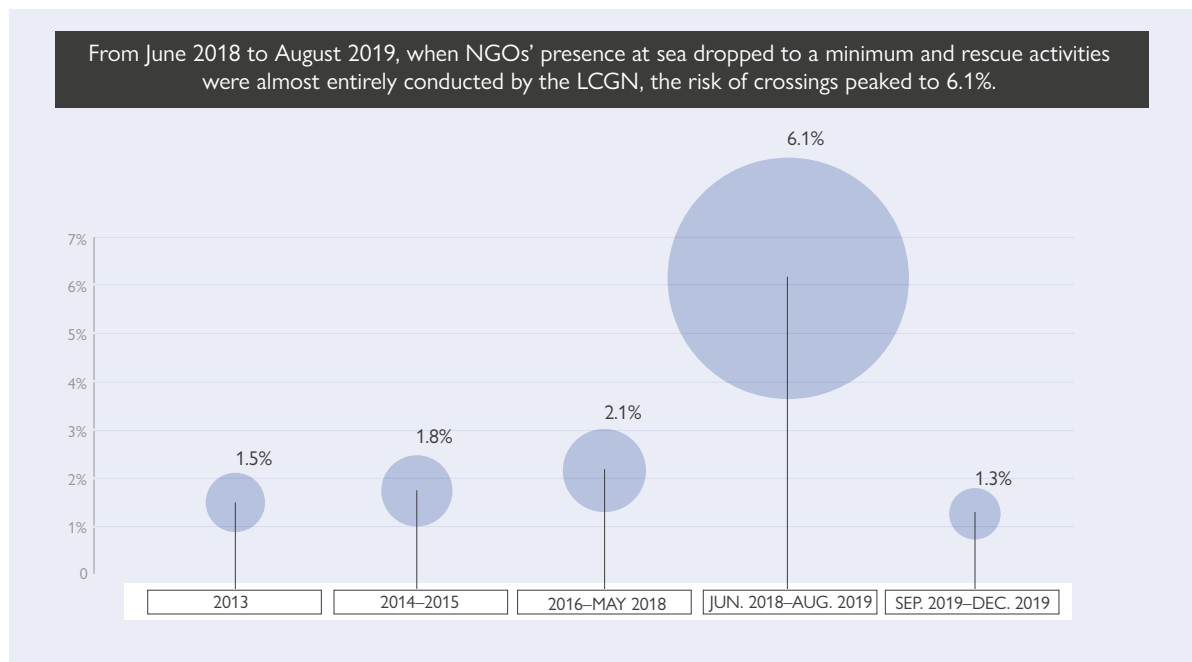
Source: IOM Missing Migrants Project.

As shown in Figure 16.5, while the number of irregular departures varied significantly over time, the deadliness of the maritime border crossing remained quite stable at around 1.5–2 per cent throughout most of the period considered. Therefore, the risk of dying at sea did not decrease even as non-governmental rescuers intensified their activities and moved closer to the Libyan coast. This has elicited a debate on whether rescue missions really help save lives, lending support to the argument that such humanitarian efforts are nullified by smugglers' ability to exploit SAR operations by relying on increasingly unseaworthy boats (Deiana et al., 2019).

<sup>5</sup> We calculate the risk of crossing as the share of persons estimated to have died or gone missing over total attempted crossings. Attempted crossings are calculated as the sum of three variables: (a) migrants who reached Europe (Italy, Malta or, exceptionally, Spain) from Libya; (b) migrants who are brought back to Libya, generally but not solely by the LCGN; and (c) migrants who die or go missing.

However, available figures may themselves be biased by the greater awareness of fatalities at sea attached to the very presence of SAR assets. Moreover, the increased risk of crossing may be an unintended effect of States' efforts to combat migrant smugglers. Most notably, European navies sought to disrupt smuggling networks by destroying at least 545 boats (European Council, 2018). This activity is likely to have significantly encouraged the resort to rickety dinghies, thereby indirectly increasing the deadliness of the sea crossing (Heller and Pezzani, 2017). As stated in a confidential report by the head of the European Union mission EUNAVFOR MED Operation Sophia, published by Wikileaks, "Wooden boats... can be re-used if recovered by smugglers. However, following Operation Sophia entering into Phase 2A (High Seas), smugglers can no longer recover smuggling vessels on the high seas, effectively rendering them [wooden boats] a less economic option... and thereby hampering it" (EEAS, 2015:7).

**Figure 16.5.** Death rate for migrants departing from Libya



Source: Authors' elaborations on UNHCR and IOM data.

Furthermore, casualties increased sharply in the period we identified as the fourth phase of Central Mediterranean SAR operations. From June 2018 to August 2019, when NGOs' presence at sea dropped to a minimum due to their criminalization by Italian authorities and only the LCGN was almost entirely responsible for conducting interceptions and rescue operations, the risk of crossings peaked at 6.1 per cent. Since September 2019, when a newly-formed Italian Government loosened the restrictions on sea rescue NGOs, the deadliness of the route dropped again to previous levels (1.3%), even as weather conditions worsened at the end of the summer. Available data on the first few months of 2020 suggest that fatality rates have only slightly increased in the first few months of 2020, despite the reduced presence of SAR assets. The possibility that fatalities have gone increasingly underreported in the wake of this crisis, however, suggests handling these figures with caution (Sanchez and Achilli, 2020).

Overall, the evidence presented above suggests that European Union and NGO SAR operations are unable to eradicate the risk of irregular crossings, but are crucial in preventing such a risk from escalating. As European State and civil society assets generally refrained from operating too close to Tripoli's territorial waters, the creation of an LCGN patrolling Libyan coasts may fill an important gap in rescue capabilities and indirectly reduce fatalities by deterring irregular departures. This organ, however, is still not fully prepared to provide adequate assistance and is struggling to return migrants to Libya against their will. In this context, relying on the LCGN seems to have only increased fatality rates at sea.

## 16.7. Conclusions

Maritime rescue operations along the Central Mediterranean Route have evolved through four phases. After an initial period when the gap in rescue capabilities left by the collapse of Libya's institutions was only sporadically filled by Italian and Maltese forces as well as merchant vessels, Italy and the European Union launched military and law enforcement missions that carried out a large number of SAR operations. Their gradual disengagement from the Mediterranean resulted in an increasing role for civil society. As NGOs' presence also shrank due to the increasing difficulties and risks of criminalization attached to disembarking migrants in Italy, the newly formed LCGN has become by far the largest provider of SAR operations. Accordingly, Libyan territory is now used as the main disembarkation venue for migrants rescued in the Southern Mediterranean, even if it does not amount to a place of safety under international law.

This chapter briefly explored the relationship between the evolution of SAR operations off the coast of Libya, and the number of irregular maritime crossing and fatalities at sea.

The complexity of these dynamics belies the possibility to draw robust conclusions, warranting additional research. Our preliminary findings, however, illustrate the enduring importance of rescue operations conducted by both public and private European assets. These SAR missions appear to have played an important (although not decisive) role in reducing the deadliness of sea crossings without significantly contributing to incentivizing seaborne migration. The suspension of rescue missions that has occurred in the wake of the COVID-19 crisis is therefore threatening severe humanitarian implications, further exacerbating the risks posed by irregular migration across the Central Mediterranean Route.

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